

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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FRED R. ROSENTHAL,

Plaintiff(s),

-against-

THE ROCKEFELLER UNIVERSITY HOSPITAL and
ROCKEFELLER UNIVERSITY,

Defendant(s).
-----X

SUMMONS

Plaintiff(s) designate
NEW YORK County as the
place of trial.

The basis of the venue is
Defendant's place of business

Plaintiff(s) reside at
38 Knightsbridge Road
Apartment 1A
Great Neck, NY 11021

Index No.:
Date Summons &
Complaint Filed:

To the above named Defendant(s)

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer, or if the complaint is not served with this summons, to serve a notice of appearance on the plaintiff's attorney(s) within twenty days after the services of this summons exclusive of the day of service, where service is made by delivery upon you personally within the state, or within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Port Washington, NY
September 17, 2019


Brett A. Zekowski
Parker Waichman LLP
Office & Post Office Address:
6 Harbor Park Drive
Port Washington, NY 11050
(516) 466-6500
Our File # 9002578

TO: The Rockefeller University Hospital
1230 York Avenue
New York, NY 10021

Rockefeller University
1230 York Avenue
New York, NY 10021

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK-----X
FRED R. ROSENTHAL,**VERIFIED COMPLAINT**

Plaintiff(s),

Index No.:

Jury Trial Demanded

-against-

THE ROCKEFELLER UNIVERSITY HOSPITAL and
ROCKEFELLER UNIVERSITY,

Defendant(s).

-----X

Plaintiff, Fred R. Rosenthal, by his attorneys Parker Waichman LLP, complaining of the defendants, respectfully alleges, on personal knowledge as to himself and on information and belief as to all other matters, as follows:

1. At the time of the commencement of this action plaintiff, Fred R. Rosenthal, was a resident of the County of Nassau, State of New York.
2. At the time of the incident(s) giving rise to this complaint, plaintiff was a resident of the County of Queens, State of New York.
3. This action is timely pursuant to CPLR 214-g.
4. At all times herein mentioned, defendant, The Rockefeller University Hospital, was a not for profit corporation incorporated in the State of New York by virtue of the laws of the State of New York.
5. At all times herein mentioned, defendant, Rockefeller University, was a not for profit corporation incorporated in the State of New York by virtue of the laws of the State of New York.
6. At all times herein mentioned, defendant, The Rockefeller University Hospital, was located at 1230 York Avenue, New York, New York 10021.

7. At all times herein mentioned, defendant, Rockefeller University, was located at 1230 York Avenue, New York, New York 10021.

8. At all times herein mentioned, Dr. Reginald Archibald was a doctor operating under the direction and control of defendant, The Rockefeller University Hospital, and its agents, servants and/or employees.

9. At all times herein mentioned, Dr. Reginald Archibald was a doctor operating under the direction and control of defendant, Rockefeller University, and its agents, servants and/or employees.

10. At all times herein mentioned, Dr. Reginald Archibald was an agent, servant and/or employee of defendant, The Rockefeller University Hospital.

11. At all times herein mentioned, Dr. Reginald Archibald was an agent, servant and/or employee of defendant, Rockefeller University.

12. The negligence and recklessness of defendants, The Rockefeller University Hospital and Rockefeller University, caused Dr. Reginald Archibald to have access to infants, on hospital premises and elsewhere, despite its knowledge that Dr. Reginald Archibald sexually abused children and/or had the propensity to sexually abuse children. Defendants, The Rockefeller University Hospital and Rockefeller University, are therefore liable for the injuries that plaintiff suffered because, but for defendants, The Rockefeller University Hospital and Rockefeller University's negligence, plaintiff would not have suffered the mental and physical anguish inflicted by Dr. Reginald Archibald.

13. Dr. Reginald Archibald sexually assaulted plaintiff, Fred R. Rosenthal, and many other young patients of defendants, The Rockefeller University Hospital and Rockefeller University, in New York, New York. Nonetheless, defendants, The Rockefeller University Hospital and Rockefeller University, failed to remove Dr. Reginald Archibald from his position as

a doctor or to take any steps to keep this sexual predator away from children. In fact, defendants, The Rockefeller University Hospital and Rockefeller University, continued to allow, encourage and/or permit Dr. Reginald Archibald to have unfettered access to infants.

14. Upon information and belief, on or about June 3, 1964, Dr. Reginald Archibald sexually assaulted and unlawfully touched plaintiff in the examining room of his office at defendants, The Rockefeller University Hospital and Rockefeller University. Dr. Reginald Archibald asked plaintiff who was then fourteen (14) years old, to masturbate in front of him. Dr. Reginald Archibald then proceeded to touch and fondle plaintiff's penis.

15. Dr. Reginald Archibald was able to gain access to plaintiff by using his position of authority as a doctor affiliated with defendants, The Rockefeller University Hospital and Rockefeller University, provided by defendants, The Rockefeller University Hospital and Rockefeller University, to gain the trust of plaintiff, other children and their families.

16. As a result of the actions of defendants, The Rockefeller University Hospital and Rockefeller University and Dr. Reginald Archibald, plaintiff felt and continues to feel ashamed and uncomfortable. Plaintiff has endured and continues to suffer severe emotional distress due to the negligence of defendants, The Rockefeller University Hospital and Rockefeller University.

17. As a result of the foregoing, plaintiff suffered catastrophic and lifelong injuries as a result of defendants, The Rockefeller University Hospital and Rockefeller University's negligence in undertaking a duty, including but not limited to *in loco parentis*, in failing to protect its infant patients and to keep them safe from Dr. Reginald Archibald, despite defendants, The Rockefeller University Hospital and Rockefeller University, having knowledge that Dr. Reginald Archibald sexually abused children and/or had the propensity to sexually abuse children, and/or allowing Dr. Reginald Archibald to continue to have a position of authority and power and in failing to adequately supervise Dr. Reginald Archibald.

**AS AND FOR A FIRST CAUSE OF ACTION
NEGLIGENT HIRING, RETENTION, SUPERVISION AND/OR DIRECTION**

18. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 18 as if fully set forth herein.

19. The sexual abuse of children by adults, including medical doctors and other medical providers, is foreseeable.

20. Defendants, The Rockefeller University Hospital and Rockefeller University, at all relevant times, had a duty to supervise and prevent known risks of harm to its infant patients by its doctors and staff.

21. Defendants, The Rockefeller University Hospital and Rockefeller University, was negligent in hiring, retaining, directing and supervising its personnel, such as Dr. Reginald Archibald, who were careless, unskillful, negligent, reckless and acted in a willful and wanton manner in not possessing the requisite knowledge and skill of doctors and hospital staff who should have properly been supervising the doctors and hospital staff to ensure the safety of its infant patients.

22. Defendants, The Rockefeller University Hospital and Rockefeller University, knew or should have known that Dr. Reginald Archibald sexually abused and/or had the propensity to sexually abuse children and did nothing to stop it.

23. As a direct and proximate result of defendants, The Rockefeller University Hospital and Rockefeller University's negligent hiring, supervising and retention of Dr. Reginald Archibald, plaintiff was caused to suffer serious personal injuries, emotional distress, conscious pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as yet been ascertained.

24. By reason of the foregoing, defendants, The Rockefeller University Hospital and

Rockefeller University, is liable to plaintiff for compensatory damages and punitive damages, together with costs and interest in an amount which exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A SECOND CAUSE OF ACTION
NEGLIGENCE/GROSS NEGLIGENCE**

25. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 25 as if fully set forth herein.

26. Defendants, The Rockefeller University Hospital and Rockefeller University, knew or negligently failed to know that Dr. Reginald Archibald posed a threat of sexual abuse to children.

27. At all relevant times, defendants, The Rockefeller University Hospital and Rockefeller University, owed a duty of care to plaintiff and other infant patients, including but not limited to *in loco parentis*, to keep them safe from sexual abuse by the doctors and staff under its supervision and control.

28. At all relevant times, defendants, The Rockefeller University Hospital and Rockefeller University, and/or its agents, servants and/or employees breached the above stated duty in a negligent, reckless, willful and wanton manner, and caused plaintiff to be sexually assaulted by Dr. Reginald Archibald while on defendants, The Rockefeller University Hospital and Rockefeller University's premises.

29. As the result of defendant, The Rockefeller University Hospital and Rockefeller University's failure to carry out its duty to plaintiff, as described above, plaintiff was caused to experience severe psychological injuries and the loss of enjoyment of life. These injuries are persistent, permanent and debilitating in nature.

30. By reason of the foregoing, plaintiff is entitled to compensatory and punitive

damages in an amount which exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.

**THIRD CAUSE OF ACTION
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

31. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 31 above as if set forth at length herein.

32. As described above, defendants, The Rockefeller University Hospital and Rockefeller University and Dr. Reginald Archibald acted in a negligent and/or grossly negligent manner.

33. Defendants, The Rockefeller University Hospital and Rockefeller University, and its agents, servants and/or employees knew or reasonably should have known that the sexual abuse and other improper conduct would and did proximately result in physical and emotional distress to plaintiff.

34. Defendants, The Rockefeller University Hospital and Rockefeller University, had the power, ability, authority and duty to intervene with and/or stop the improper conduct that resulted in plaintiff being sexually abused by Dr. Reginald Archibald.

35. Despite said knowledge, power and duty, defendants negligently failed to act to stop, prevent and prohibit the improper conduct that resulted in Dr. Reginald Archibald sexually abusing plaintiff.

36. The actions of defendants, The Rockefeller University Hospital and Rockefeller University and Dr. Reginald Archibald endangered plaintiff's safety and caused him to fear for his own safety.

37. As a direct and proximate result of the actions of defendants, The Rockefeller University Hospital and Rockefeller University and Dr. Archibald, which included, but were not

limited to, negligent and/or grossly negligent conduct, plaintiff suffered severe injuries and damages as described herein, including, but not limited to, mental and emotional distress.

38. By reason of the foregoing, defendants, The Rockefeller University Hospital and Rockefeller University, is liable to plaintiff for compensatory damages and for punitive damages, together with costs and interest.

WHEREFORE, plaintiff demands judgment against defendants on each cause of action as follows:

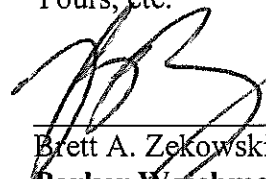
- A. Awarding compensatory damages in an amount to be proven at trial, but in any event in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction;
- B. Awarding punitive damages to the extent permitted by law;
- C. Awarding prejudgment interest to the extent permitted by law;
- D. Awarding costs and fees of this action, including attorneys' fees, to the extent permitted by law;
- E. Awarding such other and further relief as to this Court may seem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: Port Washington, New York
September 17, 2019

Yours, etc.



Brett A. Zekowski
Parker Waichman LLP
Attorneys for Plaintiff(s)
Office & Post Office Address
6 Harbor Park Drive
Port Washington, NY 11050
516-466-6500
Our File # 9002578

INDIVIDUAL VERIFICATION

STATE OF NEW YORK

ss.:

COUNTY OF NASSAU

Fred R. Rosenthal being duly sworn deposes and says:

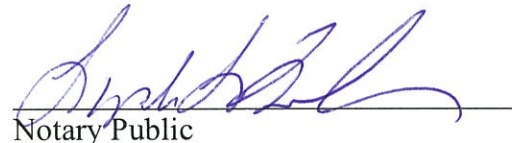
I am the plaintiff(s) herein; I have read the annexed Complaint and know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters, I believe them to be true.



Fred R. Rosenthal

Sworn to before me this

17th day of September, 2019


Notary Public

LYNDA L. LUCKMAN
Notary Public, State of New York
No. 01LU4949698
Qualified in Nassau County 23
Commission Expires April 17, 2023

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

FRED R. ROSENTHAL,

Plaintiff(s),

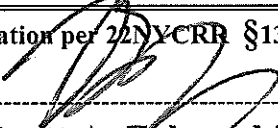
-against-

THE ROCKEFELLER UNIVERSITY HOSPITAL and ROCKEFELLER UNIVERSITY,

Defendant(s).

SUMMONS AND VERIFIED COMPLAINT

Certification per 22NYCRR §130-1.1a


Brett A. Zekowski
Parker Waichman LLP
Attorneys for Plaintiff(s)
6 Harbor Park Drive
Port Washington, NY 11050
(516) 466-6500

To:
Attorney(s) for

Service of a copy of the within is hereby admitted.

Dated:
Attorney(s) for

PLEASE TAKE NOTICE

NOTICE OF

ENTRY that the within is a (certified) true copy of a entered in the office of the Clerk of the within named
Court on 2019 .

NOTICE that an Order of which the within is a true copy will be presented to the Hon. , one of the
OF

SETTLEMENT judges of the within named Court, at ,
, on
20 , at M.

Dated:

Parker Waichman LLP
Attorneys for Plaintiff(s)

TO: